

**Monday, November 20, 2006**

The Board met at its offices at 450 N Street, Sacramento, at 10:55 a.m., with Mr. Chiang, Chair, Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS**

Gina L. Tenorio, 343022  
2004, \$1,364.00 Assessment  
For Appellant:

Gina Tenorio, Taxpayer  
Jesse Torres, Witness  
Joann Nguyen, Intern  
Jane Perez, Tax Counsel

For Franchise Tax Board:

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant is entitled to head of household filing status.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Edward Freidberg and Traci Reynolds, 340178

2003, \$6,947.05 Claim for Refund  
2004, \$3,367.15 Claim for Refund

For Claimant:

Edward Freidberg, Taxpayer  
Craig Scott, Tax Counsel

For Franchise Tax Board:

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether underpayment of estimated tax penalties, late payment penalties and related interest were properly imposed for 2003 and 2004.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Granite Construction, Inc., 301578

1997, \$61,425.00 Claim for Refund  
1998, \$102,195.00 Claim for Refund/Assessment

For Appellant:

David Grazian, Taxpayer  
Bob Uehling, Taxpayer  
Marty Dakessian, Attorney  
Joseph Vinatieri, Attorney

For Franchise Tax Board:

Daniel Biedler, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issue: Whether appellant's "rock plant" assets are primarily used in a qualified manufacturing activity, and thus constitute qualified property for purposes of the Manufacturer's Investment Credit, pursuant to Revenue and Taxation Code section 23649.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 11.4)

Respondent's Exhibit: Miscellaneous Documents (Exhibit 11.5)

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Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

The Board recessed at 11:55 a.m. and reconvened at 1:30 p.m. with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

### **CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS**

Albert F. Ojeda, 336543

2003, \$3,396.00 Tax, \$1,788.00 Penalties and Fee

For Appellant: Albert F. Ojeda, Taxpayer

For Franchise Tax Board: Jane Perez, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Issues: Whether appellant has demonstrated any error in the proposed assessment for 2003.

Whether the Board should impose a frivolous appeal penalty.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 11.6)

Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

### **SALES AND USE TAX APPEALS HEARINGS**

Susan A. Hendrickson-Castro, 283845 (UT)

January 12, 2003, \$12,917.00 Tax

For Petitioner: Sue Castro, Taxpayer

Gary Castro, Representative

For Department: Carla Caruso, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner purchased the motor home for use in California.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Richard Charles Walton, 310562 (GH)

10-1-98 to 3-20-02, \$20,379.14 Tax, \$2,781.29 Penalty

For Petitioner: Richard Charles Walton, Taxpayer

For Department: Robert Stipe, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

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Issues: Whether taxpayer is personally liable under Revenue and Taxation Code section 6829 for tax liabilities incurred by Matrix Communications, LLC (SR GH 97-118477 (Matrix)) for the period October 1, 1998, through March 20, 2002.

Whether taxpayer should be granted relief from his liability based on his reliance on advice from the Board.

Whether taxpayer has established reasonable cause to abate the finality and failure-to-timely pay penalties.

Whether taxpayer should be relieved of the amnesty interest penalty.

Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

#### **FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD NOVEMBER 20, 2006**

Gina L. Tenorio, 343022

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

Edward Freidberg and Traci Reynolds, 340178

Final Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

#### **CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS**

Roby L. Matheny, 342460

2000, \$27,166.75 Claim for Refund

For Claimant:

Appearance Waived

For Franchise Tax Board:

Craig Scott, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant has shown reasonable cause for abatement of the notice and demand penalty.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

#### **FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD NOVEMBER 20, 2006**

Granite Construction, Inc., 301578

Final Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and duly carried, Mr. Chiang, Mr. Parrish and Mr. Leonard voting yes, Ms. Yee and Ms. Mandel voting no, the Board reversed the action of the Franchise Tax Board.

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Albert F. Ojeda, 336543

Final Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD NOVEMBER 20, 2006**

Susan A. Hendrickson-Castro, 283845 (UT)

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Richard Charles Walton, 310562 (GH)

Final Action: Mr. Leonard moved to grant the petition. The motion was seconded by Mr. Parrish, but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard voting no, Mr. Parrish abstaining, the Board ordered that the petition be redetermined as recommended by the Appeals Division and directed staff to work with the taxpayer on a payment plan.

**SALES AND USE TAX APPEALS HEARINGS**

R.E.M. Concepts, Inc., 332323 (EH)

7-1-00 to 1-5-04, \$3,822,110.55 Tax

For Petitioner:

Joseph A. Vinatieri, Attorney

Jason Demille, Attorney

Whitey Hegwer, Witness

Ellen Hegwer, Witness

Dave Rennie, Witness

For Department:

Sharon Jarvis, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether petitioner was the construction contractor who installed (and thus consumed) the windows it furnished in performance of the subject contracts.

Whether petitioner is entitled to relief under Revenue and Taxation Code section 6596.

Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be submitted for decision.

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Frederik Van Rooyen, 255046, 309259 (EA)

4-1-03 to 6-30-03, \$350,848.00 Tax

11-2-02 to 12-31-02, \$25,556.00 Tax, \$2,555.60 Penalty

For Petitioner:

Frederik Van Rooyen, Taxpayer

Kai Mickey, Representative

For Department:

Robert Stipe, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Department has met its burden to prove that petitioner is personally liable under section 6829 for Discount's tax liabilities incurred for the second quarter 2003.

Whether the Sales and Use Tax Department has met its burden to prove that petitioner is personally liable for the tax liabilities incurred during the period of Discount's suspension.

Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be submitted for decision at the December 2006 Board meeting.

Ms. Mandel left the Boardroom and Mr. Chivaro entered on behalf of Mr. Westly in accordance with Government Code section 7.9.

Pratt & Whitney Power Systems, Inc., 272099 (OHB)

7-1-01 to 12-31-01; 4-1-04 to 6-30-04, \$4,202,977.00 Tax

For Claimant:

Christine L. Hill, Representative

Suzanne Beaudelaire, Representative

Chitoor Balakrishna, Representative

For Department:

Randy Ferris, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether claimant is entitled to a refund of the tax it paid pursuant to the determination for its sales to Reliant.

Whether claimant is entitled to a refund of tax because it was entitled to take a deduction under Regulation 1655.

Action: Upon motion of Ms. Yee, seconded by Mr. Chivaro and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Chivaro voting yes, Mr. Chiang absent, the Board ordered that the petition be submitted for decision.

Mr. Chivaro left the Boardroom and Ms. Mandel entered on behalf of Mr. Westly in accordance with Government Code section 7.9.

The Board recessed at 4:30 p.m. and reconvened at 4:40 p.m. with Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

## **FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD NOVEMBER 20, 2006**

R.E.M. Concepts, Inc., 332323 (EH)

Final Action: The Board deferred consideration of this matter to the December 2006 Board meeting.

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**SALES AND USE TAX APPEALS HEARINGS**

Marcella Maria Rosales, 308469 (KH)

1-1-03 to 11-17-03, \$1,404.00 Tax, \$140.40 Penalty

For Petitioner: Appearance Waived, Taxpayer

For Department: Carla Caruso, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Issues: Whether petitioner is liable for the unreported taxable sales.

Whether petitioner is entitled to relief of the failure-to-file penalty.

Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard abstaining, Mr. Chiang absent, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Ms. Mandel left the Boardroom and Mr. Chivaro entered on behalf of Mr. Westly in accordance with Government Code section 7.9.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD NOVEMBER 20, 2006**

Pratt &amp; Whitney Power Systems, Inc., 272099 (OHB)

Final Action: Upon motion of Ms. Yee, seconded by Mr. Chivaro and duly carried, Ms. Yee, Mr. Leonard and Mr. Chivaro voting yes, Mr. Parrish voting no, Mr. Chiang absent, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Mr. Chivaro left the Boardroom and Ms. Mandel entered on behalf of Mr. Westly in accordance with Government Code section 7.9.

**SPECIAL TAXES APPEALS HEARING**

George Sulaiman Haddad, 240869 (ET)

5-19-01 to 1-31-02, \$200,372.91 Tax, \$20,037.30 Penalty

For Petitioner: Appearance Waived

For Department: Tim Treichelt, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner has provided sufficient credible evidence to show he did not purchase and distribute the taxable tobacco products in dispute and therefore is not liable for the tax.

Whether relief from the penalty for failure to file returns is warranted.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

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**LEGAL APPEALS MATTERS, CONSENT**

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Mr. Leonard seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, Mr. Parrish not participating in *Cal U-Rent, Inc., 299190*, the Board made the following orders:

Sherry Crystal Tejeda and Prospero Olmos Tejeda, 313099 (GH)

4-1-99 to 6-30-03, \$12,889.25 Tax

Action: Redetermine as recommended by the Appeals Division.

Cal U-Rent, Inc., 299190 (MT)

1-1-03 to 12-31-03, \$183.06 Claim for Refund

Action: Redetermine as recommended by the Appeals Division. Mr. Parrish not participating.

Long Thanh Nguyen, 362002 (ET)

May 18, 2006, \$164.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Thuy Thi Hong Nguyen, 362341 (ET)

June 28, 2006, \$62.37 Approximate Value

Action: Determined that staff properly seized the tobacco products.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT**

The Board deferred consideration of the following matter: *Affiliated Funding Corporation, 317945*.

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, Mr. Parrish not participating in *Robert P. Anderson, et al., 313978*, the Board made the following orders:

Affiliated Funding Corporation, 317945

2003, \$14,446.88 Claim for Refund

Action: The Board deferred consideration of this matter.

Robert Andrea, 283173

2000, \$6,264.06 Assessment, \$1,566.01 Late Filing Penalty

Action: Modify the action of the Franchise Tax Board.

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John Buerger, 300340

2002, \$9,283.00 Tax, \$2,320.75 Late Filing Penalty

Action: Sustain the modified action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty.

Scott C. Conway, 340161

2003, \$1,172.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Estate of Rosemarie K. Hoyer (Deceased), 335773

1994, \$34,562.92 Assessment

1995, \$65,863.09 Assessment

Action: Sustain the action of the Franchise Tax Board.

ICI Americas, Inc., 312753

1995, \$74,201.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Michael E. Leighton, 336609

2003, \$1,091.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Cherie Nickell, 333432

1982, \$420.79 Assessment

Action: Modify the action of the Franchise Tax Board.

Point Arguello Pipeline Company, 340943

Point Arguello Terminal Company, 340944

Point Arguello Natural Gas Line, 340945

1999 to 2001, \$7,200.00 Claims for Refund

Action: Sustain the action with concession by the Franchise Tax Board.

Rowena H. Robinson, 341902

2002, \$1,239.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Donnie Schroeder, 332676

2003, \$3,042.00 Tax, \$760.50 Late Filing Penalty, \$760.50 Notice and Demand Penalty, \$90.00 Filing Enforcement Fee

Action: Sustain the modified action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty.

Susan Smilow, 342152

2004, \$1,824.73 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.



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Michael Baldigo, 296867

2001, \$580.00 Claim for Refund

Action: Deny the petition for rehearing.

Robert P. Anderson, et al., 313978

Stephen R. Fake, et al., 314025

Dan M. Lusky, et al., 313988

1998, \$355,636.00 Assessment

1999, \$43,898.00 Assessment

2000, \$21,161.00 Assessment

Action: Deny the petition for rehearing. Mr. Parrish not participating.

Dante S. Detorres, 318123

2000, \$3,202.00 Tax, \$750.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

Christopher Gyorgy, 282946

2001, \$2,046.00 Assessment, \$511.50 Late Filing Penalty, \$750.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

Tuan Q. Nguyen and Jacqueline Hoang, 306870

1998, \$166,193.00 Assessment

Action: Deny the petition for rehearing.

Warren D. Ward, 260981

2001, \$725.00 Assessment, \$181.25 Penalty

2001, \$109.00 Assessment, \$100.00 Penalty, \$1,000.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

Charles West, 316395

2001, \$829.00 Assessment, \$151.00 Late Filing Penalty

Action: Reverse the action of the Franchise Tax Board and deny the petition for rehearing.

## HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board made the following orders:

Sandra H. Allison, 345650

2004, \$472.60

Action: Sustain the action of the Franchise Tax Board.

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Deborah Darden-Williams, 339300

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Philip D. Janney, 347044

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Clarence Hansen, 318281

2005, \$1.00 or more

Action: Reverse the action of the Franchise Tax Board.

**SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES  
AND DENIALS OF CLAIMS FOR REFUND, CONSENT**

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board made the following orders:

LSI Logic Corporation, 334199 (GH)

7-1-98 to 12-31-01, \$1,198,084.92

Action: Approve the redetermination as recommended by staff.

Whitehall Jewellers, Inc., 300394 (OHA)

1-1-00 to 9-30-03, \$457,355.36

Action: Approve the redetermination as recommended by staff.

Siemens Dematic Corporation, 311600 (OHA)

1-1-00 to 12-31-02, \$435,150.72

Action: Approve the redetermination as recommended by staff.

Impath, Inc., 256022 (OHB)

1-1-99 to 9-27-03, \$3,116,851.62

Action: Approve the redetermination as recommended by staff.

Alpha Beta Company, 333929 (AA)

4-27-98 to 5-26-02, \$86,024.40

Action: Approve the redetermination as recommended by staff.

Mehrnoush Kamran, 195693 (AS)

1-1-99 to 12-31-01, \$127,706.89

Action: Approve the redetermination as recommended by staff.

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Sandroni Rey, LLC, 259347 (AS)

1-1-99 to 6-30-02, \$107,250.02

Action: Approve the redetermination as recommended by staff.

Office Club, Inc., 372808 (OHA)

7-1-05 to 9-30-05, \$60,236.48

Action: Approve the relief of penalty as recommended by staff.

Tuesday Morning, Inc., 360670 (OHC)

11-01-05 to 11-30-05, \$72,743.44

Action: Approve the relief of penalty as recommended by staff.

Becton Dickinson & Company, 336172 (OHB)

7-1-99 to 6-30-02, \$68,072.42

Action: Approve the relief of penalty as recommended by staff.

VWR International, Inc., 372533 (OHB)

4-1-06 to 4-30-06, \$103,944.66

Action: Approve the relief of penalty as recommended by staff.

Pape' Material Handling, Inc., 372530 (OH)

4-1-05 to 6-30-05, \$53,497.65

Action: Approve the relief of penalty as recommended by staff.

Sully-Miller Contracting Company, 372534 (EA)

10-1-05 to 12-31-05, \$62,630.31

Action: Approve the relief of penalty as recommended by staff.

Tiffany & Company, 372531 (OHB)

5-1-06 to 6-15-06, \$67,749.78

Action: Approve the relief of penalty as recommended by staff.

Cabi, LLC, 360669 (AA)

1-1-06 to 3-31-06, \$71,116.40

Action: Approve the relief of penalty as recommended by staff.

Food 4 Less of California, Inc., 331833 (AA)

4-27-98 to 5-26-02, \$165,959.00

Action: Approve the denial of claim for refund as recommended by staff.

Cardinal Health 109, Inc., 315664 (OHA)

10-1-99 to 9-30-02, \$66,058.34

Action: Approve the denial of claim for refund as recommended by staff.

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Alpha Beta Company, 373351 (AA)

4-27-98 to 5-26-02, \$606,671.22

Action: Approve the denial of claim for refund as recommended by staff.

Hughes Markets, Inc., 331832 (AA)

4-27-98 to 5-26-02, \$204,550.68

Action: Approve the denial of claim for refund as recommended by staff.

Bay Area Warehouse Stores, Inc., 331825 (CH)

4-27-98 to 5-26-02, \$84,777.62

Action: Approve the denial of claim for refund as recommended by staff.

Schawk Holdings, Inc., 360272 (AA)

1-1-04 to 9-30-05, \$75,214.86

Action: Approve the denial of claim for refund as recommended by staff.

Howmedica Osteonics Corporation, 336745 (OHB)

7-1-99 to 9-30-03, \$93,772.35

Action: Approve the denial of relief of penalty/interest as recommended by staff.

**SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT**

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, Ms. Mandel not participating in accordance with Government Code section 87105 in *Target Corporation, 359622; Mercedes-Benz USA, LLC, 354875; BCI Coca-Cola Bottling Co, L.A., 311112; and, BCI Coca-Cola Bottling Co, L.A., 311946*; the Board made the following orders:

Shelby Williams Industries, Inc., 361463, (OHA)

4-1-02 to 12-31-04, \$70,217.68

Action: Approve the credit and cancellation as recommended by staff.

Corbell Products, Inc., 372688 (EH)

7-1-05 to 9-30-05, \$57,060.91

Action: Approve the credit and cancellation as recommended by staff.

Maximiliano A. Zamora, 362740 (AS)

10-1-02 to 6-02-06, \$85,739.56

Action: Approve the credit and cancellation as recommended by staff.

Kawasaki Motors Corporation USA, 367215 (EAA)

4-1-05 to 3-31-06, \$122,939.54

Action: Approve the refund as recommended by staff.

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Tekelec, Inc., 332529 (AC)

7-1-02 to 9-30-05, \$84,209.93

Action: Approve the refund as recommended by staff.

LBS Financial Credit Union, 234485 (EA)

4-01-01 to 12-31-02, \$102,007.86

Action: Approve the refund as recommended by staff.

San Pedro Peninsula Hospital, 372895 (EAB)

4-1-01 to 12-31-04, \$109,249.25

Action: Approve the refund as recommended by staff.

Color Service, Inc., 262552 (AA)

1-1-01 to 12-31-03, \$164,101.30

Action: Approve the refund as recommended by staff.

Target Corporation, 359622 (OHA)

1-1-00 to 6-30-03, \$162,316.09

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Advanced Cardiovascular System, Inc., 361440 (GH)

1-1-99 to 6-30-02, \$220,692.68

Action: Approve the refund as recommended by staff.

LSI Logic Corporation, 312754 (GH)

7-1-98 to 12-31-01, \$3,039,286.28

Action: Approve the refund as recommended by staff.

Westamerica Bank, 239271 (JH)

4-1-01 to 12-31-03, \$333,991.10

Action: Approve the refund as recommended by staff.

The Golden 1 Credit Union, 356929 (KH)

1-1-06 to 3-31-06, \$253,751.34

Action: Approve the refund as recommended by staff.

R.A.Pearson Company, 356853 (OH)

7-1-05 to 3-31-06, \$55,188.95

Action: Approve the refund as recommended by staff.

Baker Process, Inc., 328884 (OHC)

7-1-03 to 9-30-03, \$145,024.21

Action: Approve the refund as recommended by staff.

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Fort James Operating Company, 307417 (OHA)

7-1-00 to 6-30-03, \$184,073.99

Action: Approve the refund as recommended by staff.

Colorado Prime Corporation, 261574 (OHB)

1-1-02 to 12-31-03, \$102,725.25

Action: Approve the refund as recommended by staff.

Ford Motor Company, 362187 (OHA)

5-8-06 to 5-28-06, \$681,874.33

Action: Approve the refund as recommended by staff.

Mercedes-Benz USA, LLC, 354875 (KH)

5-31-06 to 7-13-06, \$247,098.00

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Election Systems &amp; Software, Inc., 326202 (OHA)

7-1-04 to 3-31-05, \$98,777.47

Action: Approve the refund as recommended by staff.

Connell Nissan, 328562 (EAA)

1-1-04 to 3-31-05, \$115,296.09

Action: Approve the refund as recommended by staff.

Althea Technologies, Inc., 360312 (FH)

1-1-05 to 3-31-06, \$55,651.82

Action: Approve the refund as recommended by staff.

ELC Beauty, LLC, 359832 (OHB)

1-1-02 to 6-30-05, \$55,582.56

Action: Approve the refund as recommended by staff.

Mc-Donnell Douglas Corporation, 333016 (OHA)

1-1-02 to 12-31-02, \$89,695.74

Action: Approve the refund as recommended by staff.

Alpha Beta Company, 331824 (AA)

4-27-98 to 5-26-02, \$1,055,712.51

Action: Approve the refund as recommended by staff.

BCI Coca-Cola Bottling Co, L.A., 311112 (CH)

1-1-02 to 12-31-02, \$90,285.30

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

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BCI Coca-Cola Bottling Co, L.A., 311946 (AA)

1-1-02 to 12-31-02, \$182,870.81

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Fidelity Information Services, Inc., 355543 (OHA)

10-1-05 to 12-31-05, \$60,686.78

Action: Approve the refund as recommended by staff.

Schawk Holdings, Inc., 333035 (AA)

1-1-04 to 9-30-05, \$183,021.82

Action: Approve the refund as recommended by staff.

Lobel Financial Corporation, 360043 (EA)

1-1-06 to 3-31-06, \$60,546.00

Action: Approve the refund as recommended by staff.

United Auto Credit Corporation, 360018 (EAA)

1-1-06 to 3-31-06, \$60,580.10

Action: Approve the refund as recommended by staff.

A-L Financial Corporation, 362787 (EA)

1-1-06 to 3-31-06, \$147,817.82

Action: Approve the refund as recommended by staff.

S.M.H.E., 345179 (AP)

11-1-04 to 6-30-05, \$58,773.53

Action: Approve the refund as recommended by staff.

Cal State 9 Credit Union, 295062 (CH)

1-1-01 to 12-31-03, \$107,430.67

Action: Approve the refund as recommended by staff.

Pacific Oaks Federal Credit Union, 358032 (AR)

1-1-03 to 3-31-05, \$82,783.73

Action: Approve the refund as recommended by staff.

Southern Western FCU, 367217 (EA)

4-1-04 to 12-31-05, \$109,270.27

Action: Approve the refund as recommended by staff.

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**SPECIAL TAXES MATTERS, REDETERMINATIONS AND RELIEF OF PENALTIES, CONSENT**

With respect to the Special Taxes Matters, Redeterminations and Relief of Penalties, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, Ms. Mandel not participating in accordance with Government Code section 7.9 in *Clarendon National Insurance Company, 360030*; and, *Minnesota Mutual Life Insurance Company, 359123*; the Board made the following orders:

William Dwayne Robertson, 287750 (ET)

1-1-00 to 5-31-03, \$86,877.09

Action: Approve the redetermination as recommended by staff.

Clarendon National Insurance Company, 360030 (ET)

4-1-06 to 6-30-06, \$147,041.30

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Minnesota Mutual Life Insurance Company, 359123 (ET)

4-1-06 to 6-30-06, \$81,346.00

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT**

The Board deferred consideration of the following matter: *Aetna Life Insurance Company, 367182*.

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board made the following orders:

Mohammed M. Rahman, 355642 (MT)

7-1-91 to 5-17-95, \$54,802.48

Action: Approve the refund as recommended by staff.

Jetro Lov, Inc., 342015 (ET)

11-17-05 to 11-17-05, \$162,872.27

Action: Approve the refund as recommended by staff.

Aetna Life Insurance Company, 367182 (ET)

1-1-05 to 12-31-05, \$1,000,250.31

Action: The Board took no action.



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Parker Hannifin Corporation, 373761 (EF)

1-1-05 to 12-31-05, \$52,687.28

Action: Approve the refund as recommended by staff.

**PROPERTY TAXES MATTER, CONSENT**

With respect to the Property Taxes Matters, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Mr. Chiang absent, the Board made the following order:

**Petition for Reassessment of Private Railroad Car Tax**

Union Tank Car Company, 361876

2006, \$53,084,007.00

Action: Granted the 2006 private railroad car tax petition for reassessment reducing its value to \$51,908,454.00 as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**LEGAL APPEALS PROPERTY TAX MATTERS, CONSENT**

The Board deferred consideration of the following matter: *Pacific Gas & Electric Company (0135), 359205.*

With respect to the Legal Appeals Property Tax Matters, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Mr. Chiang absent, the Board made the following orders:

**Petitions for Penalty Abatement on Unitary Value**

ACI Communications Holdings, Inc. (8022), 357204

2006, \$58,100.00 Penalty

Action: Deny the penalty abatement on 2006 unitary value as recommended by the Appeals Division. Ms. Mandel not participating in accordance with Government Code section 7.9.

Asia Talk Telecom, Inc. (8007), 360224

2006, \$32,200.00 Penalty

Action: Deny the penalty abatement on 2006 unitary value as recommended by the Appeals Division. Ms. Mandel not participating in accordance with Government Code section 7.9.

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**Petitions for Reassessment of Unitary Value**

Pacific Gas &amp; Electric Company (0135), 359205

2006, \$15,785,000,000.00 Unitary Value

Action: The Board deferred consideration of this matter.

**Petitions for Reassessment and Penalty Abatement on Unitary Value**

Public Communications Services (7811), 358547

2006, \$1,590,000.00 Unitary Value, \$159,000.00 Penalty

Action: Deny the petition for penalty abatement and increase the 2006 unitary value to \$1,740,000.00 and commensurate penalty to \$174,000 plus commensurate penalty as recommended by the Appeals Division. Ms. Mandel not participating in accordance with Government Code section 7.9.

Locus Telecommunications, Inc. (8017), 359198

2006, \$698,000.00 Unitary Value, \$69,800.00 Penalty

Action: Denied the petition for reassessment and penalty abatement on 2006 unitary value, and increased its unitary value from \$698,000 to \$869,000 and commensurate penalty of \$86,900, for a total value of \$955,900 as recommended by the Appeals Division. Ms. Mandel not participating in accordance with Government Code section 7.9.

**LEGAL APPEALS MATTERS, ADJUDICATORY**

California Automobile Ins. Company, 127684, 139404 (ET)

1-1-98 to 12-31-99, \$87,217.62 Tax

1-1-00 to 12-31-00, \$76,911.00 Tax

Considered by the Board: July 18, 2006

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Mr. Chiang absent, the Board deferred consideration to the December 12, 2006, meeting.

Orna Amzaleg, Asher Fadlon and Isack Fadlon, 171769 (AS)

1-1-97 to 12-31-99, \$329,497.80 Tax, \$32,949.84 Penalty

Considered by the Board: June 13, 2006

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Mr. Parrish made a motion to reduce the markup to 45.43 percent to allow discounts on footwear and apparel. The motion was seconded by Mr. Leonard but no vote was taken.

The Board deferred consideration to November 21, 2006.

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**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS,  
ADJUDICATORY**

Apple Computer, Inc., 152016

1989, \$1,258,506.00 Assessment

Considered by the Board: Formal Opinion

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating, Mr. Chiang absent, the Board adopted the formal opinion.

Alpine Electronics of America, Inc., 281865

1989, \$211,150.00 Claim for Refund

Considered by the Board: August 31, 2005

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Mandel and duly carried, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee voting no, Mr. Chiang absent, the Board adopted a decision modifying the action of the Franchise Tax Board.

Paul L. Casanova and Barbara Joan Casanova, 289775

1998, \$9,091.00 Assessment

1999, \$8,504.00 Assessment

Considered by the Board: March 7, 2006

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Del Dietrich, 268788

1999, \$15,774.00 Assessment

2000, \$3,725.00 Assessment

2001, \$703.00 Assessment

Considered by the Board: October 11, 2006

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board adopted a decision sustaining the action of the Franchise Tax Board

Monica E. Ridley (Formerly Monica E. Esparza), 341520

2003, \$976.00 Assessment

Considered by the Board: October 11, 2006

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

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Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board adopted a decision sustaining the action of the Franchise Tax Board.

**SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, ADJUDICATORY**

Long Beach Acceptance Corporation (EA), 198737

7-1-99 to 12-31-02, \$2,139,564.04

Considered by the Board: September 27, 2006

Contribution Disclosures pursuant to Government Code section 15626: Disqualifying contributions were disclosed to Ms. Yee and Mr. Leonard. No other disqualifying contributions were disclosed.

Action: The Board deferred consideration to November 21, 2006, for lack of quorum.

Eagle Community Credit Union (EAA), 374923

1-1-03 to 3-31-06, \$356,181.95

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board approved the refund as recommended by staff.

**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, ADJUDICATORY**

Argonaut-Southwest Insurance Company (ET), 264564

1-1-99 to 12-31-01, \$118,114.58

Considered by the Board: October 11, 2006

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Mr. Chiang absent, the Board approved the refund as recommended by staff.

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**TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE****PROPERTY TAX MATTERS****Audits**

OmniPoint Communications, Inc., (2748)

2003, \$25,400,000.00 Escaped Assessment, \$2,540,000.00 Penalties, \$8,382,000.00 In-lieu Interest

2004, \$17,600,000.00 Escaped Assessment, \$1,760,000.00 Penalties, \$4,224,000.00 In-lieu Interest

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and duly carried, Mr. Parrish and Mr. Leonard voting yes, Ms. Yee voting no, Ms. Mandel not participating in accordance with Government Code section 7.9, Mr. Chiang absent, the Board reduced the penalty for both years to 5 percent.

Mountain Utilities (185)

2003, \$1,030,000.00 Escaped Assessment, \$339,900.00 In-lieu Interest

2004, \$2,430,000.00 Escaped Assessment, \$141,000.00 Penalties, \$583,200.00 In-lieu Interest

2005, \$1,900,000.00 Escaped Assessment, \$90,000.00 Penalties, \$285,000.00 In-lieu Interest

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Mr. Chiang absent, the Board adopted the audit escaped assessment, plus penalties and in-lieu interest, as recommended by staff.

**Board Roll Changes**

1999 State-Assessed Property Roll

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Mr. Chiang absent, the Board approved corrections to the 1999 Board Roll of State-Assessed Property as recommended by staff (Exhibit 11.7).

**OFFERS-IN-COMPROMISE RECOMMENDATIONS**

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board approved the Offers in Compromise of *Edith Sinclair*; and, *Rebecca Shuster*; as recommended by staff.

The Board adjourned at 5:15 p.m.

*The foregoing minutes are adopted by the Board on March 20, 2007.*

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Note: The following cases were removed from the calendar prior to the meeting: *Sierra Railroad Company*, 287920, 288213; *Deluxe Corporation*, 297128; and, *Argonaut Group, Inc.*, 287738.